

**Executive Summary – Enforcement Matter – Case No. 46190**  
**SAINT-GOBAIN CERAMICS & PLASTICS, INC.**  
**RN100213859**  
**Docket No. 2013-0294-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Bryan Ceramics Plant, 1500 Independence Avenue, Bryan, Brazos County

**Type of Operation:**

Ceramics plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 19, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$8,063

**Amount Deferred for Expedited Settlement:** \$1,612

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$6,451

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 46190  
SAINT-GOBAIN CERAMICS & PLASTICS, INC.  
RN100213859  
Docket No. 2013-0294-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** November 30, 2012

**Date(s) of NOE(s):** January 17, 2013

***Violation Information***

1. Failed to maintain daily records. Specifically, records of the daily natural gas usage for the steam generator, Emission Point Number ("EPN") A5, were not maintained [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 20006, Special Conditions No. 9.A.].

2. Failed to submit a semi-annual deviation report within 30 days after the end of the reporting period. Specifically, the deviation report for the reporting period from July 27, 2011 through January 26, 2012 was due February 25, 2012, but was not submitted until August 27, 2012 [30 TEX. ADMIN. CODE § 122.145(2)(C), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. 02804, General Terms & Conditions].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On August 27, 2012, Respondent submitted a revised deviation report for the period of July 27, 2011 through January 26, 2012.

**Technical Requirements:**

The Order will require Respondent to:

a. Within 30 days, develop and implement a record keeping system to document the daily natural gas usage for EPN A5; and

b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 46190**  
**SAINT-GOBAIN CERAMICS & PLASTICS, INC.**  
**RN100213859**  
**Docket No. 2013-0294-AIR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Amancio R. Gutierrez, Enforcement Division,  
Enforcement Team 5, MC 149, (512) 239-3921; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** David Yandell, Plant Manager, SAINT-GOBAIN CERAMICS &  
PLASTICS, INC., 1500 Independence Avenue, Bryan, Texas 77803

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	22-Jan-2013	<b>Screening</b>	6-Feb-2013	<b>EPA Due</b>	14-Oct-2013
	<b>PCW</b>	6-Feb-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	SAINT-GOBAIN CERAMICS & PLASTICS, INC.				
<b>Reg. Ent. Ref. No.</b>	RN100213859				
<b>Facility/Site Region</b>	9-Waco	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46190	<b>No. of Violations</b>	2
<b>Docket No.</b>	2013-0294-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amancio R. Gutierrez
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$7,500**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **20.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,500**

Notes Enhancement for one order with denial of liability.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$937**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$62  
Approx. Cost of Compliance \$1,750  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$8,063**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$8,063**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$8,063**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$1,612**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$6,451**

Screening Date 6-Feb-2013

Docket No. 2013-0294-AIR-E

PCW

Respondent SAINT-GOBAIN CERAMICS &amp; PLASTICS, INC.

Policy Revision 3 (September 2011)

Case ID No. 46190

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100213859

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 20%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 20%

Screening Date 6-Feb-2013

Docket No. 2013-0294-AIR-E

PCW

Respondent SAINT-GOBAIN CERAMICS &amp; PLASTICS, INC.

Policy Revision 3 (September 2011)

Case ID No. 46190

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100213859

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health &amp; Safety Code § 382.085(b), and New Source Review Permit No. 20006, Special Conditions No. 9.A

Violation Description Failed to maintain daily records. Specifically, records of the daily natural gas usage for the steam generator, Emission Point Number A5, were not maintained.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

68 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$3,750

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$56

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500



# Economic Benefit Worksheet

Respondent SAINT-GOBAIN CERAMICS & PLASTICS, INC.  
 Case ID No. 46190  
 Reg. Ent. Reference No. RN100213859  
 Media Air  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,500	30-Nov-2012	30-Aug-2013	0.75	\$56	n/a	\$56
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

### Notes for DELAYED costs

Estimated cost to develop and implement a record keeping system to demonstrate compliance with the daily record keeping requirement. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$56



Screening Date 6-Feb-2013

Docket No. 2013-0294-AIR-E

PCW

Respondent SAINT-GOBAIN CERAMICS &amp; PLASTICS, INC.

Policy Revision 3 (September 2011)

Case ID No. 46190

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100213859

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 122.145(2)(C), Tex. Health &amp; Safety Code § 382.085(b), and Federal Operating Permit No. 02804, General Terms &amp; Conditions

Violation Description

Failed to submit a semi-annual deviation report within 30 days after the end of the reporting period. Specifically, the deviation report for the reporting period from July 27, 2011 through January 26, 2012 was due February 25, 2012, but was not submitted until August 27, 2012.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of rule requirement was not met.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

184 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended for the one late report.

## Good Faith Efforts to Comply

25.0% Reduction

\$937

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent completed corrective measures on August 27, 2012, prior to the January 17, 2013 NOE.

Violation Subtotal \$2,813

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$3,563

This violation Final Assessed Penalty (adjusted for limits) \$3,563

# Economic Benefit Worksheet

Respondent SAINT-GOBAIN CERAMICS & PLASTICS, INC.  
 Case ID No. 46190  
 Reg. Ent. Reference No. RN100213859  
 Media Air  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	25-Feb-2012	27-Aug-2012	0.50	\$6	n/a	\$6

### Notes for DELAYED costs

Estimated cost to submit a revised deviation report. The Date Required is the date the deviation report was due and the Final Date is the date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$6

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN601572175, RN100213859, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN601572175, Saint-Gobain Ceramics & Plastics, Inc. **Classification:** SATISFACTORY **Rating:** 3.75

**Regulated Entity:** RN100213859, BRYAN CERAMICS PLANT **Classification:** SATISFACTORY **Rating:** 3.75

**Complexity Points:** 5 **Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 1500 INDEPENDENCE AVE BRYAN, TX 77803-2001, BRAZOS COUNTY

**TCEQ Region:** REGION 09 - WACO

## ID Number(s):

**AIR OPERATING PERMITS** PERMIT 2804

**AIR OPERATING PERMITS** ACCOUNT NUMBER BM0026Q

**AIR NEW SOURCE PERMITS** PERMIT 4636

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER BM0026Q

**STORMWATER** PERMIT TXR05AH68

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID

TXD089743769

**POLLUTION PREVENTION PLANNING** ID NUMBER

P00474

**AIR OPERATING PERMITS** ACCOUNT NUMBER BM0026Q

**AIR OPERATING PERMITS** PERMIT 2804

**AIR NEW SOURCE PERMITS** PERMIT 20006

**AIR NEW SOURCE PERMITS** AFS NUM 4804100027

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER  
BM0026Q

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE  
REGISTRATION # (SWR) 33129

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** January 30, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 30, 2008 to January 30, 2013

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Amancio R. Gutierrez

**Phone:** (512) 239-3921

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 02/22/2009 ADMINORDER 2008-1313-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

5C THSC Chapter 382 382.085(b)

Description: Violation of Title 30 of the Texas Administrative Code, Chapter 122, Rule 146(2), for failure to submit an annual compliance certification no later than 30 days after the end of the certification period.

### B. Criminal convictions:

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	August 10, 2009	(764473)
Item 2	July 08, 2010	(801824)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SAINT-GOBAIN CERAMICS &  
PLASTICS, INC.  
RN100213859**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2013-0294-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding SAINT-GOBAIN CERAMICS & PLASTICS, INC. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a ceramics plant at 1500 Independence Avenue in Bryan, Brazos County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 22, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Sixty-Three Dollars (\$8,063) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Six Thousand Four Hundred Fifty-One Dollars (\$6,451) of the administrative penalty and One Thousand Six Hundred Twelve Dollars (\$1,612) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that on August 27, 2012, the Respondent submitted a revised deviation report for the period of July 27, 2011 through January 26, 2012.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to maintain daily records, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 20006, Special Conditions No. 9.A, as documented during an investigation conducted on November 30, 2012. Specifically, records of the daily natural gas usage for the steam generator, Emission Point Number ("EPN") A5, were not maintained.
2. Failed to submit a semi-annual deviation report within 30 days after the end of the reporting period, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(C), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. 02804, General Terms & Conditions, as documented during an investigation conducted on November 30, 2012. Specifically, the deviation report for the reporting period from July 27, 2011 through January 26, 2012 was due February 25, 2012, but was not submitted until August 27, 2012.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: SAINT-GOBAIN CERAMICS & PLASTICS, INC., Docket No. 2013-0294-AIR-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, develop and implement a record keeping system to document the daily natural gas usage for EPN A5; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."



The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*Pam Nantz*  
For the Executive Director

7/23/13  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*David P. Vandell*  
Signature

April 15, 2013  
Date

David P. Vandell  
Name (Printed or typed)  
Authorized Representative of  
SAINT-GOBAIN CERAMICS & PLASTICS, INC.

Plant Manager  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.